

## ***HISTORY OF TEXAS OUTPATIENT SEXUALLY VIOLENT PREDATOR PROGRAM AND OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT***

**In 1995**, the 74<sup>th</sup> Texas Legislature first contemplated the sexually violent predator act with HB 595 by Representative Greenberg, Hochberg, and Danburg et. al. but the bill died in the House Criminal Jurisprudence committee.

**In 1997**, the 75<sup>th</sup> Legislature considered SB 77 by Senator John Whitmire (Houston) et. al. and authored by Senator Florence Shapiro (Plano) which would provide for the involuntary commitment of sexually violent predators. The measure died in committee, partly because of potential constitutional issues concerning similar laws and lack of appropriations (\$10.4 million in renovations for a 96 bed facility, \$3 million in assessments per year, \$78,000 per SVP per year for providing care, treatment, security, food, laundry, managerial support, and administrative staff). A key question appeared to be whether it was constitutional to involuntarily commit people after they had completed criminal sentences. The Legislature directed an interim committee to study SVP laws and the need for the law in Texas.

**In 1999**, the 76<sup>th</sup> Legislature SB 365 by Senator J. E. Brown was amended with SB 29 by Senator Florence Shapiro determined that a small but extremely dangerous group of sexually violent predators were being released from prison that had a behavioral abnormality that was not amenable to traditional mental illness treatment modalities and were likely to engage in repeated predatory acts of sexual violence. The legislature determined that the existing involuntary commitment provisions were inadequate to address the risk to society of repeated predatory behavior of the sexually violent predator (SVP). Senate Bill (SB) 365 expanded the Council on Sex Offender Treatment's (CSOT) duties to include the administration and implementation of the Outpatient Sexually Violent Predator Treatment Program (OSVPTP), the first outpatient civil commitment program in the United States. The CSOT is a governor-appointed independent board administratively attached to the Texas Department of Health- Professional Licensing and Certification Unit.

**In 2003**, the 78<sup>th</sup> Legislature SB 871 by Senator Florence Shapiro amended Health & Safety Code, Chapter 841 to require the court to appoint an attorney if the State Counsel For Offenders (SCFO) cannot represent the SVP. The bill added an additional member from the CSOT to the Multi-disciplinary Team. It increased the date from 60 days to 270th day the trial shall be conducted after filing a petition and added the effect of subsequent convictions, judgments, or commitments suspends the requirements under the chapter. The bill added that behavioral abnormality is not due to unsound mind for purposes of Section 15-a, Article I, Texas Constitution, increased cost not to exceed \$2,500 for the trial, and added the judicial requirements of not only participation but compliance with treatment, tampering with GPS, and possession or use of alcohol, inhalants, or a controlled substance.

**In 2005**, the 79<sup>th</sup> Legislature SB 912 by Senator Florence Shapiro amended Health & Safety Code, Chapter 814 to add sexually violent offenses to include sexually motivated murder and capital murder. The bill transferred some of the Global Positioning Satellite (GPS) tracking responsibilities to case managers from the Department of Public Safety, required that the SVP shall reside in a

facility under contract with CSOT and allowed SVPs to be housed in Mental Health/Mental Retardation facilities. Additionally, under the HB 2292, the Texas Department of Health and the CSOT were consolidated into the Health and Human Services Commission umbrella in the Department of State Health Services.

**In 2007**, the 80<sup>th</sup> Legislature HB 2034 by Representative Kirk England was amended with SB 1198 by Senator Florence Shapiro) amended Health & Safety Code, Chapter 814 so a judge is not subject to an objection other than an objection made under Section 74.053(d) of the Government Code and clarifies SPU civil division. The bill allowed the local prosecuting attorney to request SPU assist in the violation trial and that failure to comply with civil commitment may be prosecuted in the county of violation or Montgomery County. House Bill 8 by Representative Debbie Riddle required SVPs to pay for the GPS tracking if the SVP is not indigent. SB 1951 by Senator Wentworth created of 435<sup>th</sup> Judicial District Court in Montgomery County for civil commitment proceedings under Chapter 841, Health & Safety Code and criminal cases involving 841.085, Health & Safety Code, and Article 62.203, Code of Criminal Procedures. SB 1741 (by Senator Florence Shapiro) filed the bill to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program that were performed by the Council on Sex Offender Treatment (CSOT). The bill died on the House floor prior to final readings.

**In 2009**, the 81<sup>st</sup> Legislature HB 2917 by Representative Jim McReynolds/Senator Florence Shapiro) amended Government Code 411.110 to obtain criminal history records of current and potential employees. Senator Florence Shapiro re-filed the bill (SB 2037) to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program. The bill would have amended the Government Code by adding a new Chapter 420A titled "Office of Violent Sex Offender Management". The bill died on the House floor prior to final readings.

**In 2011**, the 82nd Legislature Senator Florence Shapiro re-filed the bill (SB 166 and HB 236 by Representative Jerry Madden) to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program. The bill amended the Government Code by adding a new Chapter 420A titled "Office of Violent Sex Offender Management". The bill was amended on the floor of the House of Representatives to administrative attach the new agency to the Department of State Health Services solely for administrative support as necessary to carry out the purpose of the OVSOM.

Additionally, the bill amended Health & Safety Code, Chapter 841 regarding the composition of the MDT to remove one member of the CSOT and one member from DSHS-Mental Health to add two members of OVSOM; requiring the person to comply with all written requirements imposed by the case manager or the office; increased the compensation for treatment providers not to exceed \$10,000; allows the office to enter into a memorandum of understanding with both DPS and local law enforcement for criminal complaints, warrants, apprehension, and arrest of the person; requires the office to provide GPS tracking in Travis, Bexar, and El Paso counties; and requires a correctional facility or secure correctional facility to notify the case manager prior to releasing the person. On June 17, 2011 the bill was signed by Governor Rick Perry with the effective date of September 1, 2011.